

DISCRIMINATION, DISCRIMINATORY HARASSMENT,  
SEXUAL IMPROPRIETY, AND RETALIATION

26.01 PURPOSE

To provide policies and procedures for preventing, reporting, investigating, and resolving incidents of discrimination, discriminatory harassment, sexual impropriety, and retaliation involving Department personnel, in accordance with Commonwealth policy and federal and state law governing equal employment opportunity. The Department is committed to the principles that break down barriers and help people achieve their goals and realize their potential. Additionally, we value and respect the differences each person brings from their culture. Diversity in our workforce enhances our ability to accomplish our mission because it increases the range of skills and approaches available to us.

26.02 POLICY

- A. The Department is an equal opportunity employer committed to providing equal opportunity for all personnel and applicants for employment without regard to race, color, sex, religious creed, national origin, ancestry, age, disability, sexual orientation, **gender identity or expression**, AIDS or HIV status, union membership, **and/or other classifications protected by federal and/or state law.**
- B. **The** Department maintains a zero-tolerance policy **regarding** discrimination, discriminatory harassment, sexual impropriety, and retaliation, all of which are prohibited conduct under federal **and/or** state law. All reports of such prohibited conduct will be thoroughly investigated. The Department will aggressively pursue all appropriate statutory and administrative remedies against Department personnel who have engaged in confirmed occurrences of prohibited conduct.
- C. **Personnel shall not prepare any communication which makes reference to a person's race, color, sex, religious creed, national origin, ancestry, age, disability, sexual orientation, gender identity or expression, AIDS or HIV status, or union membership, unless it serves a specific and legitimate purpose in accordance with Department directives/regulations.**

- D. **Personnel shall not engage in the presentation of any racial, sexual, religious, ethnic, or disability-related joke, slur, or story, in any form.**
- E. Department personnel are encouraged to communicate, verbally or in writing, any questions, concerns, recommendations, or suggestions regarding the Department's Equal Employment Opportunity (EEO) Plan, directly to the **Commander, EEO Section, Equality and Inclusion Office (EIO)**. Personnel may report allegations of discrimination directly to the **Commander, EEO Section; the EEO Specialist; an EEO Liaison; or a Supervisor.**

26.03 SCOPE

The provisions of this regulation shall apply to all Department personnel while engaged in the performance of their duties or assignments; participating in Department-authorized activities, programs, conferences, or training; and/or attending social functions sponsored or approved by the Department.

26.04 DEFINITIONS

For purposes of this regulation, the listed terms shall have the following meaning(s):

- A. Commonwealth Policy: All Governor's Office Executive Orders and Management Directives governing equal employment opportunity. This includes:
  - 1. Executive Order **2016-04**, Equal Employment Opportunity, dated **April 7, 2016**.
  - 2. Executive Order 2002-4, Prohibition of Sexual Harassment in the Commonwealth, dated May 3, 2002.
  - 3. Management Directive 410.10, Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints, dated **December 5, 2012**.
  - 4. Management Directive 505.30, Amended, Prohibition of Sexual Harassment in Commonwealth Work Settings, dated **June 19, 2002**.

5. Management Directive 505.7, Amended, Personnel Rules, Chapter 13, Conduct Employee Discipline, Conflict of Interest, and Prohibited Activities, dated November 9, 2010.
- B. Department Personnel: All members and employees of the Department, as well as all individuals and entities contracted by and/or doing business with the Department.
  - C. Discrimination: Any discriminatory action affecting a member's, employee's, or applicant's appointment, delegation, discipline, performance, promotion, recruitment, selection, separation, testing, training, or any other employment-related matter which is based upon the affected individual's race, color, sex, religious creed, national origin, ancestry, age, disability, **sexual orientation, gender identity or expression, AIDS or HIV status, union membership**, or other distinction protected by federal and/or state law.
  - D. Discriminatory Harassment: Any verbal, written, graphic, or demonstrative expression of denigration, intolerance, or hostility toward another person or group of people based on race, color, sex, religious creed, national origin, ancestry, age, **sexual orientation, gender identity or expression, AIDS or HIV status**, disability, **union membership**, or other distinction prohibited by federal and/or state law, which:
    1. Has the purpose or effect of unreasonably interfering with the work performance of that person or group of people or creating an intimidating, offensive, or hostile work environment;
    2. Is either an explicit or implicit condition of employment for that person or group; or
    3. Is either an explicit or implicit basis for an employment decision(s) affecting that person or group.
  - E. Equal Employment Opportunity Liaison: **Personnel** selected by Troop Commanders and Bureau/Office Directors, responsible for ensuring that all allegations of prohibited conduct are processed in accordance with this regulation.

- F. Equal Employment Opportunity **Section**: The Department entity charged with ensuring the Department's compliance with federal and/or state law, Department regulations, and Commonwealth policy governing equal employment opportunity.
- G. **Equality and Inclusion Office: The Department Office encompassing the EEO Section, the Heritage Affairs Section, and the Recruitment Services Section.**
- H. Ethnic Intimidation: A person commits the offense of ethnic intimidation if, with malicious intention toward the race, color, religious creed, **ancestry, age, sex, sexual orientation, gender identity or expression**, national origin, **AIDS or HIV status, disability**, union membership, or other distinction protected by federal and/or state law of another individual or group of individuals, he or she commits an offense under any other provision of Title 18 Pa.C.S., Article B, relating to offenses involving danger to the person; Title 18 Pa.C.S., Chapter 33, relating to arson, criminal mischief and other property destruction, exclusive of Section 3307, Institutional vandalism; or Title 18 Pa.C.S., Section 3503, Criminal trespass, with respect to such individual or his or her property, or with respect to one or more members of such group or to their property.
- I. Federal Law: Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. § 2000e-16, Employment by Federal Government.
- J. Investigation: An internal investigation conducted in accordance with AR 4-25, Internal Investigations.
- K. Inquiry: An EEO Section Supervisory Inquiry conducted by an EEO Liaison, **the EEO Specialist**, or designee of the **Commander, EEO Section**, to collect facts on which the **Commander, EEO Section**, will base a final determination as to whether or not prohibited conduct has occurred. Such inquiries are generally conducted pursuant to reports of prohibited conduct made by Department personnel to the **Commander, EEO Section, the EEO Specialist**, or their respective Troop/Bureau/Office EEO Liaison, and are documented on a General Inquiry Report, Form SP 5-361.

- L.** Prohibited Conduct: Any act of discrimination, discriminatory harassment, and/or sexual impropriety, including sexual harassment, sexual misconduct, or retaliation.
- M.** Retaliation: Any form of harmful action taken against an individual based upon that individual's exercise of his or her right under federal and/or state law to be free from prohibited conduct, including without limitation any individual who, in good faith, reports prohibited conduct or who cooperates with an investigation or inquiry of reported prohibited conduct.
- N.** Sexual Impropriety: Any form of sexual harassment or sexual misconduct, as follows:
  - 1. Sexual Harassment: Any unwelcome sexual advance, request for sexual favor, and/or other conduct of a sexual nature where any or all the following occur:
    - a. Submission to or rejection of such conduct is an explicit or implicit term or condition of an individual's employment.
    - b. Submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual.
    - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
  - 2. Sexual Misconduct: Any form of uninvited or unwelcome sexual touching, sexual contact, or conduct of a sexual nature which victimizes another.
    - a. Sexual touching or sexual contact includes intentional touching or other physical contact, whether applied directly to the skin or to clothing covering the skin of one's self or another individual, which is meant to, is reasonably likely to, or is reasonably perceived to abuse, degrade, harass, humiliate, or sexually arouse any person.

b. Sexual misconduct **also** includes any conduct specified in the following sections of Title 18 Pa.C.S., whether or not criminally charged:

- (1) Section 3121, Rape.
- (2) Section 3122.1, Statutory sexual assault.
- (3) Section 3123, Involuntary deviate sexual intercourse.
- (4) Section 3124.1, Sexual assault.
- (5) Section 3124.2, Institutional sexual assault.
- (6) Section 3125, Aggravated indecent assault.
- (7) Section 3126, Indecent assault.
- (8) Section 3127, Indecent exposure.
- (9) Section 3129, Sexual intercourse with animal.
- (10) Section 3131, Unlawful dissemination of intimate image.**
- (11) Section 5901, Open lewdness.
- (12) Section 6301, Corruption of minors (only as it relates to acts of a sexual nature).
- (13) Equivalent offenses committed in other jurisdictions (whether or not criminally charged).

**O.** State Law: The Pennsylvania Human Relations Act of October 17, 1955, P.L. 744, 43 P.S. §§ 951-963.

## 26.05 GENERAL PROHIBITIONS

A. Department personnel shall not engage in or knowingly condone prohibited conduct.

- B. Department personnel shall neither interfere nor fail to cooperate with investigations or inquiries involving alleged prohibited conduct.

26.06 RESPONSIBILITIES

A. Deputy Commissioner of Administration and Professional Responsibility:

1. Ensure the provisions of this regulation are adhered to and enforced.
2. Ensure timely, impartial disciplinary action against individuals determined to have engaged in prohibited conduct.
3. Ensure swift, effective remedial action to stop, correct, and prevent a repetition of prohibited conduct.
4. Ensure appropriate confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

B. **Director, Equality and Inclusion Office:**

1. **Decide whether to accept a request to reconsider an EEO complaint and, if accepted, decide how to proceed with the request.**
2. **Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free from discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.**
3. **Ensure appropriate confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.**

**C.** Director, Bureau of Integrity and Professional Standards:

1. Ensure prompt, thorough, and impartial investigations or inquiries of all reported prohibited conduct.
2. Confer with the **Commander, EEO Section**, to ensure timely, impartial adjudication of confirmed occurrences of prohibited conduct, and swift, effective remedial action to discourage repetition of prohibited conduct.
3. Ensure all investigators assigned to the Internal Affairs Division, Bureau of Integrity and Professional Standards, receive training to effectively investigate alleged prohibited conduct.
4. Confer with the **Commander, EEO Section**, on each report of prohibited conduct to jointly determine whether an investigation or inquiry is warranted by the circumstances.
5. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.
6. Ensure appropriate confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**D.** Director, Bureau of Human Resources:

1. Forward copies of final determinations in disciplinary cases involving alleged prohibited conduct by employees to the **Commander, EEO Section**.
2. Inform the **Commander, EEO Section**, of developments in employee grievance proceedings involving alleged prohibited conduct.
3. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination,

discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.

4. Ensure appropriate confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**E. Director, Department Discipline Office:**

1. Forward copies of final determinations in disciplinary cases involving alleged prohibited conduct by members to the **Commander, EEO Section**.
2. Inform the **Commander, EEO Section**, of developments in member grievance proceedings involving alleged prohibited conduct.
3. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.
4. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**F. Commander, Equal Employment Opportunity Section, Equality and Inclusion Office:**

1. Ensure Department compliance with federal and/or state law, Department regulations, and Commonwealth policy pertaining to discrimination, discriminatory harassment, sexual impropriety, and retaliation.
2. Ensure consistent enforcement of this regulation.
3. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in

the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.

4. Promote Department-wide understanding and respect for equal employment opportunity concepts.
5. Develop Department training pertaining to discrimination, discriminatory harassment, sexual impropriety, and retaliation, as directed by the Deputy Commissioner of Administration and Professional Responsibility.
6. Ensure annual dissemination of the Commonwealth's policy statement against sexual harassment to all Department personnel.
7. Train EEO Liaisons and Internal Affairs Division investigators to ensure prompt, thorough, and competent investigations or inquiries of all reports of prohibited conduct.
8. Prepare the Department's annual EEO Plan in accordance with Governor's Office Manual, M410.3, Guidelines for Equal Employment Opportunity Plans and Programs.
9. Revise this regulation, as needed, to reflect changes in federal **and/or** state law, Commonwealth policy, and/or Department regulations.
10. Confer with the Director, Bureau of Integrity and Professional Standards, on each report of prohibited conduct to jointly determine whether an investigation or inquiry is warranted by the circumstances.
11. Consult with the **Office of Chief Counsel** to ensure the Department's compliance with federal **and/or** state law, and to preserve the Department's legal rights and defenses in anticipation of litigation arising from alleged violations of federal **and/or** state law.
12. Insofar as practical, follow the procedures specified under Commonwealth Management Directive 410.10, Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints.

13. Promptly notify the **Office of Chief Counsel** of each report of prohibited conduct, and advise whether the matter will be handled as an investigation or inquiry.
14. When in doubt as to whether a matter under investigation or inquiry involves prohibited conduct or some other violation of law, promptly consult with the **Office of Chief Counsel** to determine whether the matter should be referred to another Department entity, government agency, or legal forum for further action.
15. When litigation has commenced in a court of law or before an outside agency **against the Department or Department personnel** alleging prohibited conduct, immediately refer the case to the **Office of Chief Counsel** for further action.
16. Obtain legal guidance from the **Office of Chief Counsel**:
  - a. While evaluating facts developed by an inquiry.
  - b. Before taking direct remedial action to neutralize the adverse impact of prohibited conduct or prevent recurrences of such conduct.
  - c. Before notifying the complainant or subject of the disposition of an inquiry.
17. Obtain approval of the **Office of Chief Counsel** before issuing the final determination of an inquiry.
18. Consult with adjudicators during the evaluation of all investigations involving alleged prohibited conduct.
19. Monitor grievance proceedings of Department personnel involving alleged prohibited conduct.
20. Serve as the Department's custodian of records relating to all EEO **Section** operations and all Department actions taken pursuant to this regulation, including EEO training and enforcement.
  - a. Maintain a thorough, accurate record of all actions taken by the Department pursuant to an inquiry,

which shall be retained in accordance with applicable Department records retention schedules or otherwise for a period of four years from the last recorded action.

- b. Retain a true-and-correct copy of each final determination, together with all attachments and other records associated with the underlying inquiry, in accordance with Department records retention schedules or otherwise for a period of four years from the date of issuance of the final determination.
21. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**G. Office of Chief Counsel:**

1. Notify the **Commander, EEO Section**, of all complaints of prohibited conduct against the Department or Department personnel originating from outside the Department, and the final disposition (i.e., withdrawal, dismissal, settlement, or adjudication) of all such complaints.
2. Upon request, provide legal advice and assistance to the **Commander, EEO Section**, as inquiries are conducted to ensure the Department's compliance with federal and/or state law, and to ensure preservation of the Department's legal rights and defenses in anticipation of litigation arising from alleged violations of federal and/or state law.
3. Whenever litigation or outside agency administrative proceedings arise from an on-going inquiry, assume control over the inquiry and direct all further action, as required.
4. Review the final determination of each inquiry before it is issued by the **Commander, EEO Section**, to objectively verify the occurrence of prohibited conduct and, upon such verification, approve the issuance of the final determination.

5. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**H.** Equal Employment Opportunity Liaisons:

1. Monitor the work environment for occurrences or risks of prohibited conduct and promptly notify the **Commander, EEO Section**, accordingly. The affected Troop Commander(s) and/or Bureau/Office Director(s) shall also be notified.
2. Promptly notify the **Commander, EEO Section**, of all reported prohibited conduct.
3. Consult with the **Commander, EEO Section**, before taking any action in response to any report of prohibited conduct, unless immediate action is necessary.

NOTE: Certain situations may require immediate action against an alleged offender (e.g., physical contact, abuse). Immediate action may include, but is not limited to, the following: change of work location, change of shift, or a change of duty assignment. If immediate action is taken prior to contacting the **Commander, EEO Section**, notification shall be made as soon as practicable, but no later than 1600 hours on the next business day.

4. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.
5. When directed by the **Commander, EEO Section**, initiate an inquiry into alleged prohibited conduct, as specified by this regulation and in a manner consistent with all applicable Department policies and procedures.
6. Within **30** working days of the initiation of an inquiry, compile a report of all facts developed by the inquiry, as well as all relevant documentation regarding the alleged

prohibited conduct, and forward to the **Commander, EEO Section**, for final determination. Inquiries shall be documented on a General Inquiry Report. The General Inquiry Report is available via the PSPiNet, Administrative Center, **Equality and Inclusion Office**, under the “**EIO Documents**” link, or by clicking on the following hyperlink: [EIO Documents](#).

7. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**I. Commanders and Directors:**

1. Ensure work environments are monitored for occurrences or risks of prohibited conduct.
2. Promptly notify the **Commander, EEO Section**, of any report of prohibited conduct, and confer with the **Commander, EEO Section**, before taking any action in response to alleged prohibited conduct, unless immediate action is necessary.
3. **Commanders and Directors shall** consult with the **Commander, EEO Section**, before adjudicating matters involving alleged prohibited conduct.
4. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.
5. In January of each year, provide written notification to all personnel under their command of the following:
  - a. The identity of the Troop/Bureau/Office EEO Liaison;
  - b. The procedures for reporting prohibited conduct; and
  - c. Supervisor’s responsibilities when prohibited conduct has been reported.

NOTE: Such notice shall be made via Troop/Bureau/Office Directive (Appendage A). A copy of the directive shall be forwarded to the **Commander, EEO Section**, no later than January 31 of each year.

6. Promptly provide written notification to all personnel under their command via Troop/Bureau/Office Directive (Appendage A) of changes in the Troop/Bureau/Office EEO Liaison assignment, and forward a copy of the directive to the **Commander, EEO Section**.
7. Ensure all personnel under their command complete and sign the Acknowledgment of Receipt of the Commonwealth of Pennsylvania's Sexual Harassment Policy form (Enclosure [1] of Management Directive 505.30) during the Department's annual EEO training. Personnel shall forward the signed acknowledgement, through channels, to their Troop/Bureau/Office EEO Office Liaison. A current list of Troop/Bureau/Office EEO Office Liaisons can be found on the PSPiNet, Administrative Center, under the "Equality and Inclusion Office" link, or at the following hyperlink: [Troop/Bureau/Office EEO Office Liaisons](#). Troop/Bureau/Office EEO Liaisons shall ensure a signed copy of the Acknowledgment of Receipt of the Commonwealth of Pennsylvania's Sexual Harassment Policy is received and placed in the corresponding Electronic Official Personnel Folder in SAP for each member/employee assigned to their Troop/Bureau/Office. A signed copy of each acknowledgement shall also be scanned and emailed to the Equality and Inclusion Office, at [ra-pspequalempoppoff@pa.gov](mailto:ra-pspequalempoppoff@pa.gov).
8. Ensure an adequate supply of the Sexual Harassment/ Sexual Misconduct Policy and Complaint Procedures Brochure, Form SP 5-355 (Appendage B), and the Sexual Harassment/Sexual Misconduct and Complaint Procedures Brochure (Spanish Version), Form SP 5-355S (Appendage C), are maintained and displayed in the lobby or other conspicuous location within each Department installation under their command.

9. Actively support programs and practices designed to develop understanding, acceptance, and commitment to equal employment opportunity. All supervisory and management personnel will be evaluated on their commitment to equal employment opportunity, diversity, and inclusiveness in the workplace, based in part upon criteria identified in the Department's EEO Plan. It is the responsibility of all personnel to cooperate in this endeavor and maintain a work environment free **from** discrimination, while providing the highest level of quality, unbiased public service.
10. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

**J.** Supervisors:

1. Monitor the work environment for prohibited conduct.
2. Promptly notify the **Commander**, EEO **Section**, or an EEO Liaison of all occurrences or allegations of prohibited conduct.
3. Consult with the **Commander**, EEO **Section**, before taking any action in response to any report of prohibited conduct, unless immediate action is necessary.

NOTE: Certain situations may require immediate action against an alleged offender (e.g., physical contact, abuse). Immediate action may include, but is not limited to, the following: change of work location, change of shift, or a change of duty assignment. If immediate action is taken prior to contacting the **Commander**, EEO **Section**, or an EEO Liaison, notification shall be made as soon as practicable, but no later than 1600 hours on the next business day.

4. Take immediate action to reduce the risk of retaliation against anyone who exercises his or her right, under federal and/or state law, to be free **from** discrimination, discriminatory harassment, and sexual harassment in the workplace, or who cooperates with any investigation or inquiry involving alleged prohibited conduct.

5. Ensure **appropriate** confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.
- K. Department Personnel: Ensure appropriate confidentiality of all records involving alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.

26.07 REPORTING

- A. A member of the Department shall promptly report prohibited conduct that comes to their attention in accordance with the provisions of this regulation and FR 1-1, General Requirements.
- B. An employee of the Department shall promptly report prohibited conduct in accordance with the provisions of this regulation, whether the employee is a victim, witness, or otherwise concerned individual.
- C. Prohibited conduct shall be reported within **90** days of its occurrence to ensure effective investigation or inquiry pursuant to this regulation. Reporting prohibited conduct pursuant to this regulation DOES NOT satisfy statutory reporting requirements for purposes of obtaining relief from unlawful conduct under federal **and/or** state law.
  1. To obtain relief from a violation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended by the Equal Employment Opportunity Act of 1972, a charge must be filed with the U.S. Equal Employment Opportunity Commission within 300 days of the occurrence of the alleged violation (42 U.S.C. § 2000e-5[e][1]).
  2. To obtain relief from a violation under the Pennsylvania Human Relations Act of October 17, 1955, P.L. 744, 43 P.S. §§ 951-963, a complaint must be filed with the Pennsylvania Human Relations Commission within **90** days of the occurrence of the alleged violation (43 P.S. § 959[h]).

- D. Reports of prohibited conduct shall be submitted in writing on the Equal Employment Opportunity Discrimination Complaint form, to the complainant's immediate supervisor or the designated EEO Liaison assigned to the complainant's Troop/Bureau/Office. Complaints may also be filed with the **Commander, EEO Section**. If the alleged prohibited conduct involves the complainant's immediate supervisor or another individual in the complainant's chain of command, the complaint may be filed with the alleged offender's immediate supervisor. The Department handles all reports of prohibited conduct as complaints.
1. **In accordance with Management Directive 410.10 Amended, Guidelines for Investigating and Resolving Internal Discrimination Complaints, all complaints must be investigated and treated seriously. There is no distinction between a formal or informal complaint. A complaint does not need to be in writing to warrant the need for an investigation. Once a verbal complaint is reviewed, the complainant may be asked to complete a written complaint form.** The Equal Employment Opportunity Discrimination Complaint form is available via the PSPiNet, Administrative Center, **Equality and Inclusion Office**, under the "EIO Documents" link, or by clicking on the following hyperlink: [EIO Documents](#). This form can also be obtained by calling the **EEO Section** at 717-787-7220, or by contacting an EEO Liaison.
  2. All complaints/reports of prohibited conduct shall be handled and maintained confidentially, insofar as practicable.

26.08 PROCESSING AND DOCUMENTATION

- A. Except in circumstances requiring immediate action (e.g., physical contact, abuse), no action shall be taken in response to an allegation of prohibited conduct until the **Commander, EEO Section**, has been apprised of the situation.
- B. In cases where the **Commander, EEO Section**, is notified of reported prohibited conduct, he or she shall apprise the Director, Bureau of Integrity and Professional Standards, of the situation within 10 days of receiving such notification.

- C. In cases where the Director, Bureau of Integrity and Professional Standards, is notified of reported prohibited conduct, he or she shall apprise the **Commander, EEO Section**, of the situation within 10 days of receiving such notification.
  
- D. The **Commander, EEO Section**, and the Director, Bureau of Integrity and Professional Standards, shall jointly determine whether an allegation of prohibited conduct is to be handled as an investigation or inquiry.
  - 1. The joint determination shall be based on a consideration of the following factors:
    - a. The nature of the alleged prohibited conduct.
    - b. The available records and information.
    - c. Prior reported prohibited conduct involving the alleged offender.
    - d. The need and ability to take immediate action to stop or prevent further prohibited conduct.
  - 2. In all cases, the following types of alleged prohibited conduct shall be handled as an investigation:
    - a. Criminal harassment, inappropriate physical contact, sexual misconduct, or other egregious acts that, if founded, may warrant criminal prosecution and/or disciplinary action by the Department.
    - b. Discrimination or sexual harassment that is integral to other alleged misconduct.
  - 3. Nothing shall prohibit the **Commander, EEO Section**, from referring an inquiry to the Internal Affairs Division, Bureau of Integrity and Professional Standards, for investigation in the event more serious misconduct is discovered following commencement of the inquiry.
  
- E. Whenever a complaint has been filed with any court of law or outside agency against the Department or Department personnel alleging prohibited conduct, the investigation or

inquiry shall be IMMEDIATELY referred to the **Office of Chief Counsel** for further action, as required.

- F. When it is determined that an inquiry will be conducted, the **Commander, EEO Section**, shall:
1. Assign an EEO Liaison to initiate the inquiry, which is to be conducted as specified by this regulation and in a manner consistent with all applicable Department policies and procedures.
  2. Assign an EEO Section tracking number to the inquiry and create an EEO complaint file.
  3. Review the completed inquiry to determine if violations of this policy, Commonwealth policy, and/or federal or state law have occurred.
  4. Promptly obtain legal advice and assistance from the **Office of Chief Counsel** in accordance with this regulation.
  5. Ensure **appropriate** confidentiality of all records involving the alleged prohibited conduct is maintained, except as directed by a lawful court order or authorized by the Commissioner.
- G. If the alleged offender is not a member or employee of the Department, the appropriate Commander/Director shall notify the **Commander, EEO Section**, of the circumstances. Upon notification, the **Commander, EEO Section**, shall consult with the **Office of Chief Counsel** to determine an appropriate course of action in response to the complaint.
- H. Final Determinations:
1. Final determination of all EEO complaints assigned as investigations **shall** be handled by the Bureau of Integrity and Professional Standards, in accordance with AR 4-25, Internal Investigations.
  2. Final determination of all EEO complaints assigned as inquiries **shall** be processed by the EEO Section and adjudicated by the **Commander, EEO Section**, in consultation with the **Office of Chief Counsel**.

- I. Reconsideration:
  1. Whenever a complainant is not satisfied with the final determination of the **Commander, EEO Section**, the complainant may request reconsideration of the complaint.
  2. A request for reconsideration shall be submitted in writing to the **Director, EIO Office**, within 20 days of the date the final determination is issued to the complainant by the **Commander, EEO Section**.
  3. The **Director, EIO Office**, shall decide whether to accept the request to reconsider the EEO complaint and, if accepted, how to proceed with the request.
  
- J. Other Avenues of Recourse: Regardless of whether the complainant files a complaint with the agency, or at any time during or after the discrimination complaint investigation, he or she may file a complaint with one of the following agencies:
  1. The Pennsylvania Human Relations Commission, within 180 days following the date of the alleged occurrence.
    - a. Harrisburg Regional Office, at 717-787-9780.
    - b. Philadelphia Regional Office, at 215-560-2496.
    - c. Pittsburgh Regional Office, at 412-565-5395.
  2. The U.S. Equal Employment Opportunity Commission, within 300 days following the date of the alleged occurrence.
    - a. Philadelphia District Office, at **1-800-669-4000**.
    - b. Pittsburgh District Office, at **1-800-669-4000**.
  3. **The State Civil Service Commission, within 20 calendar days of the date of the alleged occurrence.**
    - a. **Central Region Office, at 717-783-3058.**
    - b. **Eastern Region Office, at 215-560-2253.**
    - c. **Western Region Office, at 412-565-7666.**